IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELALTE SIDE

WRIT PETITION NO.10272 OF 2004

Bhimrao Vithal Patil & Ors. ...Petitioners.
Versus
Ramchandra Nana Dhanve & Ors. ...Respondents.

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MrI. M. Khairadi. for the Petitioner.
Mr. C.J. Sawant, Senior Advocate for Respondent No.1.
Mr. A.H. Palekar, AGP for Respondent Nos.2 and 3.

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CORAM : DR. D.Y. CHANDRACHUD, J.

May 4, 2005.

P.C.:

The dispute in the present case relates to the Nutan Shikshan Prasarak Mandal, Borale, Taluka Mangalweda, District Solapur, which is a Public Trust registered under the Bombay Public Trusts Act, 1950. In 1998 elections took place. The change report (CR 1146/98) was accepted and it has been stated that, that body completed its tenure of three years. On 17th December 2001 elections were held again. The newly elected body took charge. It

has been stated that the change report was accepted by the Assistant Charity Commissioner, Solapur. The Joint Charity Commissioner, however, set aside the acceptance of the change report and remanded the matter back for fresh hearing. On 9th July 2004, a new scheme for the Trust was sanctioned and the first Board of Trustees was appointed by the Assistant Charity Commissioner by an order dated 9th July 2004. The order of acceptance and framing of a new scheme as well as appointment of the first Board of Trustees came to be stayed by the Additional District Judge, Pandharpur on 26th August 2004. It has been stated that Writ Petitions 8368, 8369, 8370 and 8371 of 2004 have been filed in this Court to challenge the order of stay. Counsel appearing on behalf of the Petitioners states that no interim relief has been granted therein. The First Respondent filed a Miscellaneous Application (Miscellaneous Application 1799 of 2004) for a direction to the Assistant Charity Commissioner to take the order of stay dated 26th August 2004 passed by the Additional District Judge, Pandharpur on record, in respect of Schedule-I of the Trust. That application was allowed by the Assistant Charity

Commissioner on 7th October 2004.

2. The impugned order of the Assistant Charity Commissioner in so far as it take on record the fact that the Additional District Judge, Pandharpur passed an order of stay on 26th August 2004 cannot be faulted. The grievance of the Petitioner, however, is that the impugned order also directs the revival of the Board of Trustees which was constituted in 1998 and whose term has come to an end. Counsel appearing on behalf of the First Respondent fairly states that the order of stay that was passed by the Additional District Judge on 26th August 2004 cannot possibly be construed to mean a revival of the Board of Trustees of 1998, whose term has already come to an end. During the pendency of this petition, the impugned order of the Assistant Charity Commissioner was stayed. However, it was clarified that this would not affect the operation of the order passed by the Additional District Judge on 26th August 2004 in Miscellaneous Applications 51, 52, 53 and 57 of 2004 which were the subject matter of Writ Petition 8368, 8369, 8370 and 8371 of 2004 pending

in this Court. Since the impugned order dated 7th October 2004 only relates to the period during which the appeal is pending before the Additional District Judge, Pandharpur, it would, in my view, be appropriate to direct that the appeal be heard and finally disposed of within eight weeks from today. In the meantime, the impugned order of the Assistant Charity Commissioner shall be confined to a direction only taking on record the order of stay that was passed on 26th August 2004. This order taking on record the order of stay dated 26th august 2004, shall abide by such final order that may be passed by this Court on the aforesaid four Writ Petitions. The petition is accordingly disposed of in the aforesaid terms.

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